Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Market Entry and Regulation of	)	IB Docket No. 95-22
Foreign-affiliated Entities	)	RM-8355, RM-8392

To: The Commission

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COMMENTS OF
CRUISEPHONE, INC.

Cruisephone, Inc., ("Cruisephone") submits these comments in response to the Notice of Proposed Rulemaking in the above-referenced proceeding.[1] Cruisephone is a Delaware corporation that was affiliated with France Telecom at one time. Cruisephone has Section 214 authority to provide international maritime mobile satellite services ("MMSS") and land mobile satellite services ("LMSS") using INMARSAT facilities.

In the NPRM, the Commission requests comment on whether it should modify in several respects its public interest standard under Section 214 to restrict entry by foreign carriers, and entities affiliated with foreign carriers, into the U.S. market for international facilities-based services. For the reasons discussed herein, Cruisephone urges the Commission to expressly exempt from whatever restrictions on foreign carrier market entry it adopts in this proceeding applications by foreign carriers to provide international MMSS and LMSS.

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[1] Market Entry and Regulation of Foreign-affiliated Entities, Notice of Proposed Rulemaking (rel. Feb. 17, 1995) ("NPRM").

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DISCUSSION

The Commission proposes to modify its public interest standard under Section 214 with regard to foreign carriers: "(1) to promote effective competition in the global market for communications services; (2) to prevent anticompetitive conduct in the provision of international services or facilities; and (3) to encourage foreign governments to open their communications markets."[2] As demonstrated below, however, no limitations on foreign carrier participation in the market for international MMSS and LMSS are required to achieve these ends.

To begin with, the Commission on several occasions has found that the availability of foreign capital to U.S. telecommunications concerns and, subject to certain *caveats*, the participation of foreign competitors in the telecommunications marketplace enhance global competition.[3] Effective global competition, in turn, leads to reduced rates, increased service quality, and the development of innovative new services. Vigorous competition, involving domestic and foreign entities, in the market for international MMSS and LMSS has had these beneficial effects. Thus, the realization of the Commission's "primary goal,"[4] is entirely consistent with foreign carrier participation in the market for international MMSS and LMSS.

The value of foreign carrier participation in telecommunications markets, however, may be undermined if those carriers can use their market power abroad to discriminate against competitors or otherwise engage in anticompetitive conduct. As the Commission has recognized, this danger simply does not exist in the context

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2 Id. ¶ 1.

3 See, e.g., Regulatory Policies and International Telecommunications, 2 FCC Rcd 1022, 1029 (rel. Jan. 30, 1987).

4 NPRM ¶ 27.

of international MMSS and LMSS.[5] For example, with regard to Cruisephone's provision of these services while it was still affiliated with France Telecom, the Commission explained that:

> Cruisephone's affiliation with France Telecom does not provide Cruisephone an opportunity to discriminate against competing U.S. carriers because Cruisephone is not using any France Telecom facilities. In addition, Cruisephone's potential customers that use Inmarsat...terminals have the ability to select any Inmarsat capable carrier from around the world to provide their services. Cruisephone, thus, lacks bottleneck control of either the uplink or the downlink portions of the services.[6]

The same analysis obtains for all international MMSS and LMSS. Foreign carriers providing international MMSS and LMSS do not have the means to discriminate against, or unfairly disadvantage, their competitors. Indeed, because of the nature of the maritime mobile services industry, it is quite common for a U.S. carrier *(e.g.,* Cruisephone) to serve foreign customers.

Finally, there is no indication that the adoption of a more restrictive standard under Section 214 for foreign carrier applications to provide international MMSS or LMSS will encourage foreign governments to open their communications markets. Thus, a categorical exclusion of these services from the Commission's proposed standards will not undermine the Commission's third stated goal.

In sum, Cruisephone urges the Commission to exempt applications of foreign carriers to provide international MMSS and LMSS from whatever restrictions on foreign carrier market entry it adopts in this proceeding. Such an exemption will allow U.S. firms to attract foreign capital and will increase the number of potential competitors in the marketplace without creating a risk of anticompetitive conduct

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5 See In re Cruisephone, Inc., Memorandum, Opinion, Order and Authorization, ITC-94-441 (rel. Nov. 15, 1994).
6 Id. ¶ 6.

by foreign carriers or inhibiting the development of a competitive global telecommunications marketplace.

Respectfully submitted,

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